

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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| IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION |) CASE NO.: 1:17-MD-02804 |
| |) |
| |) JUDGE DAN A. POLSTER |
| |) |
| |) MAGISTRATE JUDGE DAVID A. RUIZ |
| |) |
| |) |
| |) |
| |) <u>NOTICE OF COMPLIANCE</u> |
| |) |

PLEASE TAKE NOTICE that the United States of America received a request for the disclosure of official Department of Justice information in the above-captioned case. Specifically, the request seeks access to the Drug Enforcement Administration's ARCOS database. Federal regulations govern the disclosure of official information by Department of Justice employees (FBI agents) and prohibit personnel from testifying absent express authorization. 28 C.F.R. § 16.22(a). The United States Supreme Court has long recognized the authority of agency heads to restrict testimony of their subordinates through regulations. *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951). These regulations are commonly called “*Touhy* Regulations.” In the *Touhy* decision, the United States Supreme Court held that a subordinate federal officer could not be found in contempt of court for refusing to produce subpoenaed documents where his refusal was based on Department of Justice regulations prohibiting the disclosure of nonpublic documents without authorization of the Attorney General. *Id.* at 466. The Court rejected the contention that the regulation invaded the authority of the Courts to determine the admissibility of evidence. *Id.* at 468.

In this instance, an amended limited authorization to disclose official Department of Justice information has been granted. The amended authorization letter is attached hereto as Government Exhibit A and is being provided to the Court and all of the parties.

Respectfully submitted,

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Northern District of Ohio
Acting Under Authority Conferred by 28 U.S.C. § 515

By: /s/ James R. Bennett II
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CERTIFICATE OF SERVICE

I certify that, on March 15, 2018, I filed the foregoing Notice of Compliance electronically. The Court's electronic filing system will send notice of this filing to all parties. Parties may access this filing through the Court's system.

/s/ James R. Bennett II

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Assistant U.S. Attorney